

United States District Court

for the
Western District of New York

United States of America

24-MJ-1139

v.

Neil McCarthy

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of July 3, 2024, on American Airlines flight 1159, in the special aircraft jurisdiction of the United States, the defendant did violate Title 49, United States Code, Section 46506 by committing an act that violates D.C. Code § 22-1312, that is, exposing his penis.

This Criminal Complaint is based on these facts:

- Continued on the attached sheet.



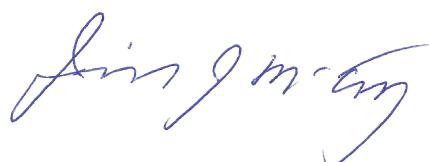
Complainant's signature

THOMAS C. DEWEY II
TASK FORCE OFFICER
FEDERAL BUREAU OF INVESTIGATION

Printed name and title

Sworn to before me telephonically.

Date: July 3, 2024



Judge's signature

City and State: Buffalo, New York

HON. JEREMIAH J. McCARTHY
UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, Thomas C. Dewey II, being duly sworn, depose and state:

INTRODUCTION

1. I am a Task Force Officer of the Federal Bureau of Investigation and entered on duty in March of 2008. I am currently assigned to the Buffalo Field Office and work on cases associated with Violent Crime Safe Streets Task Force, which includes individuals involved in offenses on aircraft. As part of these duties, I have become involved in the investigation of suspected violations of Title 49 of the U.S. Code. I make this affidavit in support of a criminal complaint charging NEIL MCCARTHY ("MCCARTHY"), with a violation of Title 49, United States Code, Section 46506 [Application of certain criminal laws to acts on aircraft] and District of Columbia Code 22-1312 [Indecent Exposure].

2. The statements contained in this affidavit are based on my involvement in this investigation, as well as information provided to me by other law enforcement officers in this investigation, and upon my training and experience as a Task Force Officer of the FBI. Because this affidavit is being submitted for the limited purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts necessary to establish probable cause to believe that MCCARTHY violated Title 49, United States Code, Section 46506 (2) and District of Columbia Code 22-1312 [Indecent Exposure].

RELEVANT STATUTES

3. Title 49, United States Code, Section 46506(2) states, in pertinent part, as follows: "An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that . . . if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code. Section 22-1112), shall be" guilty of a crime.

4. District of Columbia Code Section 22-1312 states, in pertinent part, as follows: "It is unlawful for a person, in public, to make an obscene or indecent exposure of his or her genitalia or anus."

PROBABLE CAUSE

5. On or about July 3, 2024, I reviewed a police report made by the Niagara Frontier Transit Authority (NFTA) Police Department. The report stated that on July 3, 2024, police officers were sent to Gate 2 at the Buffalo International Airport, 4200 Genesee Street, Cheektowaga, New York, to respond to a report made by American Airlines flight 1159 of a man exposing himself and urinating in the aisle of the aircraft while the plane was in flight.¹

6. The aircraft was diverted from the original destination of Manchester, New Hampshire, to Buffalo, New York. When the flight landed, one of the officers boarded the airplane and spoke to a flight attendant, who said that a man had exposed himself and urinated on the flight. The flight attendant showed the officer which man it was, later identified as MCCARTHY, and the police officer placed the man in custody and escorted him off the plane. The officer also obtained short verbal statements on his body worn camera. The officer also obtained as a passenger's cell phone photograph of MCCARTHY exposing himself and urinating in the aisle of the aircraft.

¹ Because the aircraft was in flight, it was in the "special aircraft jurisdiction of the United States," as defined in Title 49, United States Code, Sections 46501(1) and 46501(2)(A).

7. The NFTA police transported MCCARTHY to the police station, where an interview was conducted by your affiant and an NFTA Police detective. MCCARTHY was read a *Miranda* waiver and agreed to speak to investigators. During the recorded interview, MCCARTHY stated that he was flying from Portland, Oregon, to Manchester, New Hampshire, with a layover in Chicago, Illinois. MCCARTHY stated that he likes to drink "Jack and cokes" and had had several before boarding his flight in Portland, and then several more during the layover in Chicago. MCCARTHY stated that after his boarding in Chicago, he had several more "Jack and cokes." MCCARTHY stated that during the flight he got up to use the restroom and that when he came back to his seat he was "flicking the bean" due to having a medical urination problem.

8. As stated, NFTA police officers interviewed American Airlines flight 1159 staff on scene. NFTA police officers also interviewed a witness seated in row 2, who took a photograph of MCCARTHY exposing himself and urinating in the aisle of the aircraft.

CONCLUSION

9. Based upon the foregoing, I respectfully submit that I have probable cause to believe that NEIL P MCCARTHY has violated Title 49, United States Code, Section 46506 (2), and District of Columbia Code 22-1312 [Indecent Exposure].

Jeremiah J. McCarthy
Thomas C. Dewey II
Task Force Officer
Federal Bureau of Investigation

Sworn to before me telephonically this
3rd day of July, 2024.

J. McCarthy
HON. JEREMIAH J. McCARTHY
United States Magistrate Judge